



BILL NO. 109

Government Bill

*2nd Session, 62nd General Assembly
Nova Scotia
64 Elizabeth II, 2015*

An Act to Establish Tourism Nova Scotia

CHAPTER 10
ACTS OF 2015

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
MAY 11, 2015**

The Honourable Mark Furey
Minister of Business

*Halifax, Nova Scotia
Printed by Authority of the Speaker of the House of Assembly*

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An Act to Establish Tourism Nova Scotia

Be it enacted by the Governor and Assembly as follows:

1 This Act may be cited as the *Tourism Nova Scotia Act*.

2 In this Act,

(a) “Agency” means the Nova Scotia Tourism Agency created by Order in Council 2011-344 dated September 13, 2011;

(b) “Board” means the Board of Directors of the Corporation, and, for greater certainty, includes the first Board;

(c) “Corporation” means Tourism Nova Scotia;

(d) “Effective Date” means April 1, 2015;

(e) “Minister” means the Minister of Business;

(f) “outcomes agreement” means an agreement entered into pursuant to Section 20;

(g) “Transition Period” means the period from and including the Effective Date to, but not including, the date this Act receives Royal Assent.

3 The Minister has the general supervision and management of this Act and the regulations.

4 (1) There is hereby established a body corporate to be known as Tourism Nova Scotia.

(2) The Corporation is conferred the status of a crown corporation within the meaning of the *Finance Act*.

(3) All matters and affairs assigned to the Agency are hereby assigned to the Corporation.

(4) All actions taken by the Agency during the Transition Period are hereby deemed to be ratified and confirmed by the Board.

5 The management and control of the affairs of the Corporation are vested in a Board of Directors and the Board may, subject to this Act, exercise the powers of the Corporation.

6 (1) The first Board consists of the members of the Advisory Board of the Agency on the Effective Date, except for the Deputy Minister who was a member of the Advisory Board.

(2) The Chair and Vice-chair of the Advisory Board of the Agency on the Effective Date are the Chair and Vice-chair, respectively, of the first Board.

(3) Each member of the first Board serves for a term that expires on the date determined by the Minister.

(4) The term of the Chair of the first Board expires on the date that the Chair's appointment as a member of the first Board expires.

(5) The term of the Vice-chair of the first Board expires on the date that the Vice-chair's appointment as a member of the first Board expires.

7 (1) The Board consists of not more than 10 members.

(2) Where there is a vacancy on the Board, or the term of any member of the Board expires or any member ceases to be a member of the Board or is unable to act prior to the expiration of the member's term of office, the Board may, subject to subsection (4), fill the vacancy by election in accordance with the by-laws of the Corporation.

(3) The Board shall determine the term of office, not to exceed three years, for all members elected pursuant to subsection (2).

(4) Where a person has served two or more terms on the Board, the person may not be elected to the Board until three years after the person's last term ends.

(5) No person may be elected to, or serve as an elected member of, the Board unless that person is first approved for election to the Board by the Minister.

(6) The Minister may, where in the opinion of the Minister there are exceptional circumstances, remove a member of the Board elected pursuant to this Act.

8 A vacancy on the Board does not impair the right of the remaining members to act.

9 A majority of the members of the Board constitutes a quorum.

10 Each member of the Board is entitled to receive such remuneration and reasonable expenses as determined by the Governor in Council.

11 Upon the expiry of the term of the Chair of the first Board, the Chair is the member of the Board elected as Chair by the members of the Board.

12 (1) The Chief Executive Officer of the Agency on the Effective Date is the first Chief Executive Officer of the Corporation.

(2) The employment contract entered into between the first Chief Executive Officer and the Agency is the employment contract between the first Chief Executive Officer and the Corporation.

(3) Subject to subsection (4), where there is a vacancy in the position of Chief Executive Officer, the Board shall appoint a person who is not a member of the Board to be the Chief Executive Officer of the Corporation.

(4) The appointment by the Board of a Chief Executive Officer is subject to the approval of the Minister.

(5) Subject to the approval of the Minister, the Board may revoke the appointment of a Chief Executive Officer.

(6) The Board may assign to the Chief Executive Officer such duties as the Board may determine.

(7) Subject to the by-laws of the Corporation, the Board may appoint such other officers as it, from time to time, considers necessary or advisable.

13 (1) The Board is a department for the purpose of the definition of “department” in the *Conflict of Interest Act* and, for greater certainty, Section 22 of that Act applies to the members of the Board.

(2) The Corporation is a public body as defined in the *Freedom of Information and Protection of Privacy Act* and, for greater certainty, that Act applies to the Corporation.

(3) Section 44A of the *Civil Service Act* applies *mutatis mutandis* to the members of the Board.

14 The objects of the Corporation are to

(a) achieve tourism growth in the Province and maximize the value of tourism to the economy of the Province;

(b) develop and implement a long-term strategy for tourism to drive sustainable tourism in the Province that delivers growth and profitability in the tourism sector, provides economic benefit to the Province and is consistent with the Province’s strategic priorities;

(c) communicate and collaborate with communities, private industry and the tourism industry in the Province; and

(d) exercise and perform the functions and duties conferred on it by this Act and the regulations or as may be required to meet the terms of the current outcomes agreement, the business plan of the Corporation and the strategic plan of the Corporation.

15 (1) The Corporation may do such matters and things as may be necessary for, or incidental to, the effective attainment of its objects and exercise of its powers and, without restricting the generality of the foregoing, may

(a) subject to the approval of the Governor in Council, make by-laws it considers necessary for the effective attainment of its objects and the exercise of its powers and for the internal control, management and administration of the Corporation;

(b) employ and contract with such persons as it may, from time to time, require for the purpose of carrying out its objects;

(c) subject to the approval of the Governor in Council, receive, acquire, take, hold, mortgage, sell, convey or otherwise dispose of or deal with real and personal property and any interest therein;

(d) subject to the regulations, levy fees related to the delivery of programs and services pursuant to this Act; and

(e) act on behalf of the Government in such matters relating to visitor information centres and the signature resorts as the Minister may direct.

(2) Except as otherwise provided in this Act or, from time to time, by order of the Governor in Council, the Corporation has all the powers of a company incorporated pursuant to the *Companies Act*.

16 The fiscal year of the Corporation is the same as the fiscal year of the Province.

17 The Corporation, its property and assets are not subject to taxation.

18 The system of accounting and the books and records of the Corporation are subject to the approval of the Minister of Finance and Treasury Board and to audit by the Auditor General or a person designated by the Auditor General.

19 The Corporation shall, not later than June 30th in each year, prepare and submit to the Minister financial statements setting forth, as a minimum, the assets and liabilities of the Corporation and the revenues and expenses of the Corporation for the previous fiscal year, together with a report concerning the work of the Corporation during the previous fiscal year.

20 Annually as required by the Minister, the Corporation shall enter into an outcomes agreement with the Minister for each fiscal year, on the terms required by the Minister.

21 Annually as required by the Minister, the Corporation shall submit to the Minister for approval a detailed business plan for the Corporation for the following fiscal year.

22 (1) As required by the Minister, the Corporation shall submit to the Minister for approval a five-year strategic plan for the operation of the Corporation.

(2) Within five years after the Corporation submits a five-year strategic plan to the Minister, it shall

(a) submit a detailed evaluation of its activities compared against the five-year strategic plan, including any recommendations for modifications to the mandate of the Corporation; and

(b) cause a review of its activities and operation to assess how they relate to the Corporation's objects and the five-year strategic plan.

(3) Subject to the approval of the Minister, the Corporation shall appoint an independent person to conduct the review required by clause (2)(b).

(4) The person conducting the review shall explicitly recommend to the Minister whether the Corporation, and each of the activities reviewed, should

(a) continue to operate or be undertaken in the same manner;

(b) operate or be undertaken differently; or

(c) be wound up or discontinued,
as the case may be.

23 (1) In this Section and Sections 24 to 27, “designated person” means an employee of the Province who was appointed in accordance with the *Civil Service Act* and is determined by the Minister to become an employee of the Corporation.

(2) The Minister may determine who becomes a designated person.

(3) Every designated person is an employee of the Corporation and ceases to be a person appointed in accordance with the *Civil Service Act*.

(4) The *Civil Service Act* and the regulations made pursuant to that Act and the *Civil Service Collective Bargaining Act* do not apply to a designated person.

(5) The continuity of employment of a designated person is not broken by the effect of this Section.

24 (1) Every designated person is employed by the Corporation on the same or equal terms and conditions of employment as those under which the employee was employed as an employee by Her Majesty in right of the Province until changed by collective agreement or contract of employment.

(2) Every designated person is deemed to have been employed with the Corporation for the same period of employment that the employee was credited with as an employee of the Province.

(3) The Corporation is bound by a collective agreement concluded pursuant to the *Civil Service Collective Bargaining Act* in relation to a designated person as if it were a party to the collective agreement as the employer and as if the collective agreement were concluded pursuant to the *Trade Union Act*.

(4) For greater certainty, the Corporation is a transferee for the purpose of Section 31 of the *Trade Union Act*.

(5) A designated person is entitled as an employee of the Corporation to all vacation leave accumulated, less any vacation arrears that accrued, while the designated person was an employee of the Province.

(6) Subject to any applicable collective agreement or contract of employment, each designated person who, before being designated, was covered by the Nova Scotia Public Service Long Term Disability Plan or was included in a bargaining unit whose collective agreement provided for long-term disability benefits under the Nova Scotia Public Service Long Term Disability Plan is deemed to continue to be a person to whom the Nova Scotia Public Service Long Term Disability Plan applies.

(7) The obligations and liabilities of Her Majesty in right of the Province in respect of designated persons are the obligations and liabilities of the Corporation, including all employee benefits and entitlements.

25 Where notice to commence collective bargaining has been given in relation to a collective agreement respecting a designated person before the Effective Date or during the Transition Period, the Corporation is the employer for the purpose of concluding and signing a collective agreement.

26 Where, at retirement from the Corporation, a designated person would have been eligible for a public service award pursuant to the *General Civil Service Regulations* made pursuant to the *Civil Service Act* if the person had remained as an employee of the Province,

(a) Her Majesty in right of the Province shall pay to the person, upon retirement, an amount equivalent to the amount of the public service award that it would have paid to the person for the person's years of employment as an employee of the Province; and

(b) the Corporation shall pay an amount equivalent to the amount of the public service award that would have been paid by Her Majesty in right of the Province if the person had remained as an employee of the Province, less the amount paid pursuant to clause (a).

27 Each designated person who, before being designated, was an employee within the meaning of the *Public Service Superannuation Act* or was included in a bargaining unit whose collective agreement provided for participation in the Public Service Superannuation Plan is deemed to continue to be an employee for the purpose of the *Public Service Superannuation Act*, and service in the employment of the Corporation is deemed to be employment for the purpose of that Act.

28 Except where otherwise provided by a contract of employment, any person who becomes an employee of the Corporation after the Transition Period is deemed to be an employee for the purpose of the *Public Service Superannuation Act*, and

(a) that person's employment with the Corporation is deemed to be employment for the purpose of that Act; and

(b) the Corporation is deemed to be an employer for the purpose of that Act in respect of that person.

29 (1) The Governor in Council may make regulations

(a) prescribing fees that may be levied by the Corporation;

(b) prescribing matters to be included in an annual outcomes agreement and an annual business plan;

(c) respecting any matter authorized by this Act to be done by regulation;

(d) defining any word or expression used but not defined in this Act;

(e) respecting any matter or thing that the Governor in Council considers necessary or advisable to effectively carry out the intent and purpose of this Act.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*.

30 This Act takes effect on and after April 1, 2015.
